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Attorneys for Plaintiff

9 **RECEIVED**

10 **MAY 17 2007**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 ARIEL ARELLANO DIAZ,  
a/k/a ANTONIO JUAN GOMEZ,

17 Defendant.

No. 07-70225 PVT

STIPULATION AND ~~PROPOSED~~  
ORDER CONTINUING PRELIMINARY  
HEARING OR ARRAIGNMENT DATE  
AND EXCLUDING TIME

SAN JOSE VENUE

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19  
20  
21 The undersigned parties respectfully request that the preliminary hearing or arraignment in  
22 the above-referenced case be continued from May 18, 2007 at 1:30 p.m. to June 28, 2007 at 1:30  
23 p.m. before the Honorable Judge Trumbull. The reason for the continuance is that Miguel  
24 Hernandez, who represents the defendant, needs additional time to investigate the case and  
25 consider a pre-indictment resolution that the government has offered him. In addition, the parties  
26 request an exclusion of time under Rule 5 of the Federal Rules of Criminal Procedure and the  
27 Speedy Trial Act from May 18, 2007 to June 28, 2007. The parties agree and stipulate that an  
28 exclusion of time is appropriate based on the defendant's need for effective preparation of

counsel.

SO STIPULATED:

SCOTT N. SCHOOLS  
United States Attorney

DATED: \_\_\_\_\_

/s/  
SUSAN KNIGHT  
Assistant United States Attorney

DATED: \_\_\_\_\_

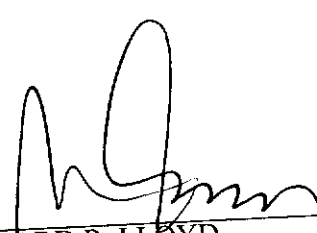
/s/  
MIGUEL A. HERNANDEZ  
Counsel for the defendant

Accordingly, the Court HEREBY ORDERS that the preliminary hearing or arraignment is continued to June 28, 2007 at 9:30 a.m. before the Honorable Judge Trumbull. Good cause is shown and the continuance is proper under Rule 5 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3060.

For good cause shown, the Court FURTHER ORDERS that time be excluded under the Speedy Trial Act from May 18, 2007 until June 28, 2007. The Court finds, based on the aforementioned reasons, that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial. The failure to grant the requested continuance would deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

SO ORDERED.

DATED: 5/18/07

  
HOWARD R. LLOYD  
United States Magistrate Judge